

Remarks

Claims 76-114 are pending with this application. Claims 1-37, 39, 41, 42, 45, 46, 49, 55, 57, 59-64, 66-68 and 72-75 have been previously cancelled without prejudice. Claims 38, 40, 43-44, 47-48, 50-54, 56, 58, 65, and 69-71 have been withdrawn and should be considered for rejoinder upon the finding of allowed claims.

On page 2 of the Office Action mailed December 4, 2009, the Examiner objected to Claim 82 for a minor informality and rejected Claim 113 for being indefinite. Applicants thank the Examiner for making these observations and have amended the claims accordingly. Claim 82 has been amended to include a comma and Claim 113 has been amended to include proper antecedent basis. Applicants respectfully request entry and allowance of the amended claims.

Claims 38, 76, 111 and 112 have been amended with this paper. The amendments find support in the originally filed specification and do not introduce new matter. Claims 38 and 76 have been amended to include an interaction between the sealer and cement board for reducing differential carbonation and controlling carbonation gradients in the cement board. Paragraph [0099] of the published application (US Application Publication No. 2006/0182946) expressly discloses a synergistic action between the sealer and the cement board after addition of the sealer, which includes permeation of the sealer into the cement board. The interaction significantly effects carbonation within the cement board by controlling the carbonation gradients within, a finding which was found to be lacking in previous sealers (see also, para. [0084], [0025]). The sealer of JP 05/287234 (hereinafter, “Yonekawa”)—a reference cited by the Examiner and combined with U.S. Application Publication No. 2002/0139082 (hereinafter, “DeFord”) for obviousness rejections—is expressly stated to form a membrane on the surface of cement mortar or concrete (e.g., see paragraphs [0009] and [0050] of Yonekawa). One skilled in the art understands well that a membrane is a defined layer, serving as a barrier that lines another surface, the membrane separates what is on one side of the barrier from what is on the other side of the barrier. As such, Yonekawa does not disclose or suggest an inter-penetrating network formed between the sealer and a cement body extending into the surface of the cement board,

reducing differential carbonation and controlling the carbonation gradients in the cement board, such as is claimed in Claim 76 (and Claim 38).

Moreover, neither Yokenawa nor DeFord teach or suggest application of a carbonation reducing sealer and a keycoat, as claimed in Claims 111 and 112. Support for the amendments introduced into Claims 111 and 112 find support in the originally filed application, at for example, paragraphs [0054] and [0080] of US Application Publication No. 2006/0182946 and the originally filed claims.

On page 2 of the Office Action, Claims 76-85, 88-89, and 92-114 were rejected under 35 U.S.C. 103(a) as being obvious over DeFord in view of Yonekawa as evidenced by a nonpatent reference referred to as ChemMasters. Applicants respectfully submit that DeFord does not teach or suggest a fiber reinforced cement board with a carbonation reduced sealer applied to at least two surfaces, the sealer having a thickness of at least 15 microns and forming an inter-penetrating network into the surface of the cement board. In addition, as described above, Yonekawa does not teach or suggest what is claimed in Claims 76, 111 (and Claim 38). Moreover, ChemMasters, which provides merely a subjective overview of activity (i.e., poor, fair, good, very good or excellent) for different polymers (i.e., epoxy, urethane, methyl methacrylate or vinyl ester), also does not teach or suggest what is claimed in Claims 76, 111 (and Claim 38). As such, the combination of references (DeFord, Yonekawa, and ChemMasters) does not meet the requirements for a showing of obviousness because said combination of references does not teach each and every element of Claims 76, 111 (and Claim 38) and said combination of reference does not teach or suggest what is claimed in Claims 76, 111 (and Claim 38) on their whole. Accordingly, Applicants respectfully request the rejection beginning on page 2 of the Office Action be removed.

On page 12 of the Office Action, Claims 86-87 and 90-91 were rejected under 35 U.S.C. 103(a) as being obvious over DeFord in view of Yonekawa as applied to Claim 76 in view of International Publication No. WO 2001/068777, which is stated to be translated in U.S. Publication No. 2003/0129323 (hereinafter, "Dornieden"). For the reasons set forth above, relying on DeFord in combination with Yonekawa cannot be used to reject Claim 76. Applying

Dornieden does not overcome the lack of teachings found in DeFord with Yonekawa, because Dornieden merely teaches light radiation of a methacrylate coating that lacks a photoinitiator. The coating of Dorneiden is expressly taught to form a film, like a barrier, either on a substrate (e.g., para. [0039]) or on a basecoat (e.g., para. [0040], [0041]). Applicants do not find that Dorneiden teaches or suggests what is claimed in Claims 76, 111 (and Claim 38). As such, the reference cannot be combined with DeFord and Yonekawa for a showing of obviousness. Accordingly, Applicants respectfully request the rejection beginning on page 12 of the Office Action be removed.

Conclusion

In light of the amendments and remarks presented with this Amendment, Applicants respectfully submit that the pending claims provided in the Listing of Claims beginning on page 3 of this paper are in condition for allowance. Accordingly, favorable consideration for and allowance of the pending and withdrawn claims are respectfully requested.

Fees for a request for continued examination are submitted concurrently herewith in addition to fees for the appropriate extension of time. No additional fees are believed to be due with this submission. This paper also serves as a petition for an extension of time for any needed extension of time, such as pursuant to 37 C.F.R. § 1.136 or any other section or provision of Title 37. Applicants respectfully request that the Commissioner grant the petition and authorize the Commissioner to charge any extension of time fee not provided with this submission to Deposit Account No. 07-0153 of Gardere Wynne Sewell LLP and reference Attorney Docket No. 131279-1050. Please credit any overpayments to this same Deposit Account. To the extent that any other relevant fee, other than the issue fee, is required with this paper, the Commissioner is hereby authorized to charge payment of such fees to the account referenced above

Should the Examiner have questions, comments, or suggestions in furtherance of the prosecution of this Application, please contact Applicants' representative at 214-999-4330. Applicants, through their representative, stand ready to conduct a telephone interview with the Examiner to review this Application if the Examiner believes that such an interview would assist in the advancement of this Application and/or place the application in condition for allowance.

This is intended to be a complete response to the Office Action mailed on the date of December 4, 2010.

Please direct all correspondence to the practitioner listed below at Customer No. 60148.

Respectfully submitted,

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